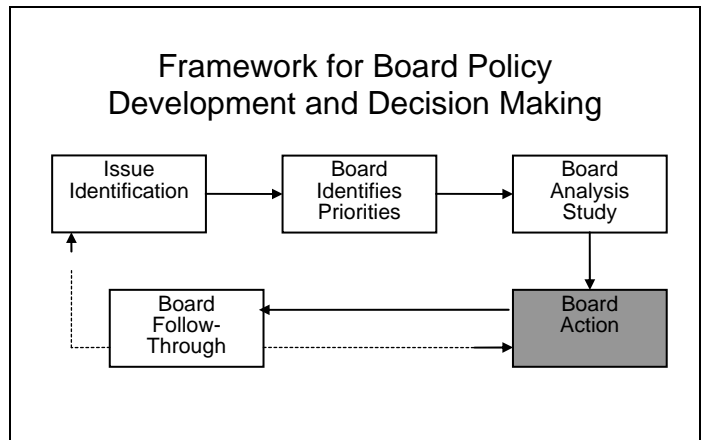


Iowa State Board of Education

Executive Summary

July 26, 2007



- Agenda Item:** Chapter 56, Vocational Rehabilitation Services (Adopt and File)
- Iowa Goal:** (3) Iowans will pursue higher education that results in an improved quality of life supported by better economic opportunities through high skill employment.
- Equity Impact:** The amendments comply with federal law and/or are designed to assist the division to better serve its clients.
- Presenter:** None (Consent Agenda)
- Attachments:** 1
- Recommendation:** It is recommended that the State Board adopt and file the following amendment to Chapter 56.
- Background:** The amendments continue the process of aligning state and federal regulations. Other items are proposed by vocational rehabilitation counselors in the field as common sense ways to better serve clients of IVRS, and none of these amendments is disallowed by federal or state law. The State Board gave public notice of its intent to adopt these amendments at its meeting of April 19, 2007.

EDUCATION DEPARTMENT [281]

Adopted and Filed

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education amends Chapter 56, "Vocational Rehabilitation Services Division," Iowa Administrative Code.

These amendments continue the process of aligning state and federal regulations. Other items are proposed by vocational rehabilitation counselors in the field as common sensical ways to better serve clients of IVRS, and none of these amendments is disallowed by federal or state law.

An agency wide waiver provision is provided in 281—Chapter 4.

Notice of Intended Action was published in the May 9, 2007, Iowa Administrative Bulletin as ARC5871B. A public hearing was held on May 29, 2007, at 3:00 p.m., and public comments were allowed until 4:30 p.m. on May 29, 2007. No written or oral comments were received.

These amendments are identical to those published under Notice.

These amendments shall become effective September 19, 2007.

The following amendments are adopted.

ITEM 1. Amend 281—Chapter 56 title, as follows:

~~"Vocational Rehabilitation Services Division"~~ Chapter 56 Iowa Vocational Rehabilitation Services

ITEM 2. Amend rule **281—56.1(259)** as follows:

281—56.1(259) Responsibility of division. The division of vocational rehabilitation services is responsible for providing services leading to employment for eligible Iowans with disabilities in accordance with Iowa Code chapter [259](#), the federal Rehabilitation Act of 1973 as amended, the federal Social Security Act (42 U.S.C. Section 301, et seq.), and the corresponding federal regulations therefore.

ITEM 3. Amend **281—56.3(259)**, the definitions of "case record," "employment outcome," "home modification," "individual with a most significant disability," "individual with a significant disability," and "physical or mental impairment" as follows:

“Case record” means the file of personally identifiable information, whether written or electronic in form, on an individual that is collected to carry out the purposes of the division as defined in the Act and the Social Security Act. This information remains a part of the case record and is subject to these rules even when temporarily physically removed, either in whole or in part, from the file folder in which it is normally kept.

“Employment outcome” means, with respect to an individual, entering or retaining full-time or, if appropriate, part-time competitive employment in the integrated labor market; supported employment; or any other type of employment, including self-employment, telecommuting, homemaking, other unpaid work within the individual's family, or business ownership, that is consistent with an individual's strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.

“Home modification” means the alteration of an already existing living unit to make it usable or more usable by a person with a disability who is involved with the independent living program or as necessary to achieve stable employment as part of an individual plan for employment.

“Individual with a most significant disability” means an individual who is seriously limited in three or more functional capacities (mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or ~~cognitive/motor~~ work skills) in terms of an employment outcome and includes an individual who, because of a disability, has been separated from employment or is in danger of becoming separated from employment.

“Individual with a significant disability” means an individual who has a significant physical or mental impairment that seriously limits one or more functional capacities (mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or ~~cognitive/motor~~ work skills) in terms of an employment outcome or who is a recipient of SSD/SSI.

“Physical or mental impairment” means:

1. No change.
2. No change.
3. Any impairment for which an individual has a documented history of receiving special education services in both elementary and secondary school.

ITEM 4. Amend rule **281—56.3(259)** by adding the following new definitions, in appropriate alphabetical order, of “residency requirement” and “satisfactory employment.”

“Residency requirement” is a condition of eligibility and is met by an individual who resides in the state of Iowa and is present and available for participation in a rehabilitation plan.

“Satisfactory employment” means stable employment consistent with an individual's IPE and acceptable to both the individual and the employer.

ITEM 5. Amend rule **281—56.4(259)** as follows:

281—56.4(259) Individuals who are recipients of SSD/SSI. Recipients of social security disability payments or supplemental security income payments are automatically eligible for vocational rehabilitation services and are determined automatically as being significantly disabled.

ITEM 6. Amend rule **281—56.5(259)** as follows:

281—56.5(259) Eligibility for vocational rehabilitation services. Eligibility for vocational rehabilitation services shall be determined upon the basis of the following:

56.5(1) A determination by qualified personnel that the applicant has a physical or mental disability impairment;

56.5(2) and 56.5(3) No change.

56.5(4) A determination that the Individual meets the residency requirement.

ITEM 7. Amend rule **281—56.6(259)** as follows:

281—56.6(259) Eligibility for specific services. Financial need must be established prior to provision of certain services at the division's expense. Applicants are eligible for physical restoration, occupational licenses, customary occupational tools and equipment, training materials, maintenance and transportation (except transportation for diagnosis, guidance or placement) only on the basis of financial need and when services are not otherwise immediately available. The following criteria are established for determination of eligibility of clients for the following services:

56.6(1) No change.

56.6(2) *Training and training materials.*

a. The training and books and supplies are necessary for the client's satisfactory occupational adjustment.

b. The client has the mental and physical capacity to acquire a skill that the client can perform in an occupation commensurate with the client's abilities and limitations.

c. The client is not otherwise precluded by law from employment in the client's field of training.

d. The client meets the residency requirement.

56.6(3) and 56.6(4) No change.

56.6(5) *Maintenance.* A client is eligible for maintenance when it is necessary to the client's vocational rehabilitation and is an extra expense incurred due to the IPE.

ITEM 8. Amend rule **281—56.9(259)** as follows:

281—56.9(259) Individuals who are blind. Pursuant to [111—10.4\(216B\)](#), individuals who meet the department for the blind's definition of "blind" are to be served primarily by the department for the blind. Individuals with multiple disabilities who also are blind may receive technical assistance and consultation services while the Department for the Blind provides their rehabilitation plan.

ITEM 9. Amend rule **281—56.10(259)** as follows:

281—56.10(259) Students in high school. The division may serve students in high school ~~without regard to their grade level or age, provided the student demonstrates the maturity level, skills, and learning characteristics required to legally work in competitive environments for non-family members.~~ If an applicant is in high school and is determined to be eligible for vocational rehabilitation services, such services may begin before the student exits the secondary school system. The services shall not supplant services for which the secondary school is responsible.

When the division determines that a student is eligible for services, the student's place on the waiting list under rule [281—56.8\(259\)](#) shall be determined. If the waiting list category appropriate for the student is a category currently being served, the student's case shall be moved to Status 10–1. Otherwise the case is placed in Status 04–0, and the student's name is added to the

waiting list for that category, based on the student's date of eligibility. An IPE may be written for a student in Status 10–1 at any time the student's vocational goal and the services necessary to reach that goal have been agreed upon by the student and the student's division counselor. The IPE must be in place when the student exits the secondary school system, unless the student has agreed to an extension or is on a waiting list or applied for services in the last quarter of the student's senior year.

The counselor assigned by the division to work with the student may participate in the student's individualized education program meetings to provide consultation and technical assistance, ~~even if the student is on the waiting list for services.~~ Once a student is removed from the waiting list, the counselor may also provide vocational counseling and planning for the student and coordinate services with transition planning teams. When such services do not supplant services for which the secondary school is responsible, the division may begin to provide services specifically related to employment, such as supported employment, ~~selective placement,~~ or job coaching services, as early as the ~~beginning of the student's final~~ junior year of secondary school. Students in high school or in an alternative high school who have not yet met high school graduation requirements after four years of secondary enrollment may continue to receive said services that do not supplant the responsibilities of the high school. Students in their final year of high school, who have made satisfactory progress and who have demonstrated skills to work in their trained profession, may receive assistance in purchasing tools to be used on a job.

ITEM 10. Amend rule **281—56.11(259)** as follows:

281—56.11(259) Establishment of financial need. The division establishes the client's financial need prior to providing physical restoration, including prostheses; transportation (for other than diagnostic, guidance or placement purposes); maintenance; and occupational licenses, tools and equipment. Recipients of SSD/SSI are not subject to a financial needs test for any services.

In determining financial need, the clients or, in the case of minors, the minors' parents or guardians are required to make a specific declaration regarding all family income from any source that may be applied toward the cost of rehabilitation services, except those of diagnosis, counseling, training and placement, which are provided without regard to financial need. The income should be available to the client; that is, actually on hand, free from prior obligations and ready when needed.

The division shall observe the following policies in making a determination of financial need based upon the findings:

56.11(1) and 56.11(2) No change.

56.11(3) Consideration shall be given to the client's responsibility for the immediate needs and maintenance of the client's dependents, and the client shall be expected to reserve sufficient funds to meet the client's family obligations and to provide for the family's future care, education and medical expenses.

56.11(4) and 56.11(5) No change.

56.11(6) No change.

56.11(7) Grants and scholarships, while not required to be searched for a comparable benefit, may be considered when determining financial support of a plan.

ITEM 11. Amend rule **281—56.12(259)** as follows:

281—56.12(259) Case finding and intake. The division seeks to locate all disabled individuals of employable age who desire to be employed full- or part-time and may be eligible for vocational rehabilitation services. To that end, referrals are accepted from all sources, and the division has established working relationships with public and private agencies in the areas of health, welfare, compensation, education, employment, and other related services. All new cases, whether

referred to a local worker or to the division, are checked for previous information and are acknowledged promptly by letter or a personal call.

ITEM 12. Amend **56.13(1)**, paragraph “b” as follows:

b. The division accepts a medical report in lieu of securing a new examination when the report can be relied upon to provide a sound basis for diagnosis of the physical or mental condition of the individual and is from one of the following providers or sources:

- (1) to (11) No change
- (12) A licensed mental health counselor;
- (13) A certified school psychologist;
- (14) A recent individualized education program as recognized by the Iowa department of education which documents a history of special education programs or services; or
- (15) An accredited or certified medical or treatment institution recognized by the state of Iowa or licensed by the Department of public health or Department of human services in either state.

ITEM 13. Amend rule **281—56.14(259)** as follows:

281—56.14(259) Individual plan for employment (IPE).

56.14(1) Content. The IPE contains the client’s expected employment goal, the specific vocational rehabilitation services needed to reach that goal, the entity or entities that will provide those services, the method by which satisfactory progress will be evaluated, and the methods available for procuring the services.

56.14(2) and 56.14(3) No change.

56.14(4) Cooperation by the client. The division requires good conduct, regular attendance and cooperation of all individuals engaged in the rehabilitation training plan implementation. The division makes the following provisions for ensuring trainee cooperation: instruction, verbally or by pamphlet, emphasizing the importance of these factors to the success of the IPE; at the beginning of the program, advising each trainee about what is expected of the trainee and that services shall continue only if the trainee’s progress, attitude and conduct are satisfactory; requiring periodic progress, grade and attendance reports from the training agency; promptly calling the trainee’s attention to evidence of unsatisfactory progress or attendance before such conditions become serious; providing encouragement to the trainee to promote good work habits, with due commendation for effective effort; and maintaining good relationships with the training agency.

56.14(5) Ticket to work. The client’s signature on the IPE verifies the ticket assignment to the division unless otherwise directed by the client.

ITEM 14. Amend rule **281—56.16(259)** as follows:

281—56.16(259) Training.

56.16(1) No change.

56.16(2) Types of training. The types of training programs available are as follows:.

- g. ~~On-the-job~~ Customized training, which is a plan developed by the client’s counselor in cooperation with the client and the employer–trainer whereby the employer–trainer accepts the client for training for a specific job or job family, paid or unpaid, that may or may not result in employment with the training employer.

56.16(3) No change.

56.16(4) Financial assistance for postsecondary training. Calculations of financial assistance for postsecondary training are based on tuition and fee amounts.

a. No change.

b. *Support services for postsecondary training.* Unless approved as an exception by the supervisor, the amounts authorized for the items listed herein cannot exceed the amounts that would otherwise be spent on tuition and fees.

Paragraph (1) to (3) No change.

(4) Tutoring shall be provided only for courses that are part of the actual degree requirements and only when this service is not available for free through the school attended by the client. Tutoring for program entrance examinations, such as the SAT, GRE, LSAT, or MCAT, is not allowed without an exception approved by the supervisor.

56.16(5) to (8) No change.

ITEM 15. Amend rule **281—56.17(259)** as follows:

281—56.17(259) Maintenance. The costs of maintenance shall not exceed the amount of increased expenses that the rehabilitation causes for the client or the client's family. Maintenance is not intended to provide relief from poverty or abject living conditions. A supervisor's written approval is required for amounts exceeding \$100 per week and for extraordinary one-time living expenses in excess of \$75 per day for a client. Guidance regarding the financial support of maintenance is available from the division's case service manual.

ITEM 16. Amend rule **281—56.18(259)** as follows:

281—56.18(259) Transportation. When necessary to enable an applicant or a client to participate in or receive the benefits of other vocational rehabilitation services, travel and related expenses, including expenses for training in the use of public transportation vehicles and systems, may be provided by the division. Transportation services may include the use of private or commercial conveyances (such as private automobile or van, public taxi, bus, ambulance, train, or plane) or the use of public transportation and coordination with a regional transit agency. The division shall not purchase or lease vehicles for a client. The division does not pay for maintenance or repair of vehicles unless written approval of the supervisor allows for an exception.

ITEM 17. Delete subrule **281—56.19(2)**, paragraph "c".

ITEM 18. Amend rule **281—56.20(259)** as follows:

281—56.20(259) Business initiatives.

56.20(1) *Entrepreneurs with disabilities (EWD) program.* Pursuant to rule [261—56.1\(15\)](#), the purpose of the EWD program is to provide technical assistance, business development grants (up to \$10,000) and financial assistance grants (up to \$10,000) to qualified Iowans with disabilities. EWD is administered by the Iowa department of economic development in collaboration with the division and the department for the blind. The EWD rules (see [261—Chapter 56](#)) are fully included by reference herein. The following paragraphs supplement [261—Chapter 56](#):

a. If a client has previously received educational or training equipment from the division through another rehabilitation program and the same equipment could be used in the client's proposed business, the division may limit or deny EWD assistance to the client.

b. If a client no longer uses equipment purchased for the client under this program, the equipment shall be returned to the division.

c. The EWD program requires 51 percent in a for-profit business.

56.20(2) ~~First step~~ Step program. ~~A client who cannot become self-sufficient or who does not for personal reasons, including reasons of personal choice, elect to declare an intent to be self-sufficient as a result of the client's business endeavor may receive limited technical and financial assistance under this program whose business idea requires less technical and financial assistance than is available through the EWD program, but who will earn from the business at least 80 percent per month in Substantial Gainful Activity (SGA) as defined by the federal Social Security Administration may pursue small business ownership through the First Step program.~~ Unless a written exception is approved by a supervisor, the division shall contribute to a client no more than \$1,000 for technical assistance and no more than \$2,500 for financial assistance. If a client no longer uses equipment purchased for the client under this program, the equipment shall be returned to the division. If the business grows, it may be considered for the EWD program with the expenditures not to exceed the EWD limits minus the expenditures in First Step.

ITEM 19. Amend rule **281—56.21(259)** as follows:

281—56.21(259) Placement. The division not only prepares individuals with disabilities for jobs and trains them in techniques in securing their own jobs, but also accomplishes the actual placement, directly or indirectly, of all eligible individuals with disabilities who receive rehabilitation services. Placement activities are based upon adequate evaluation and preparation of the client and ordinarily include some combination of the following: evaluation of the client's job readiness; development and execution of a plan for job-seeking activities; instruction in making job applications and in conduct and appearance during interviews; employer contacts; registration with the state workforce development center administration division; job analysis and modification; job coaching; employer or supervisor consultation, advisement and training; ~~selective placement efforts~~ time-limited job coaching; postplacement follow-up; and relocation costs. Satisfactory employment is the objective of all division services of preparation, and placement services are an important, integral part of the overall vocational rehabilitation program. As such, in addition to the services listed herein, placement services may include the need for transportation and subsistence allowances and the purchase and acquisition of appropriate clothing, tools, equipment, and occupational licenses.

ITEM 20. Amend rule **281—56.23(259)** as follows:

281—56.23(259) Miscellaneous or auxiliary services.

56.23(1) No change.

56.23(2) Interpreter and note taker. If deemed necessary by the division to enable a client to engage in all parts of the vocational rehabilitation or independent living program process, interpreter services or note taker services shall be provided to such client, unless provision of such services is the statutory responsibility of an institution or organization.

Interpreter services are those special communications services provided by persons qualified by training and experience to facilitate communication between division personnel and persons unable to communicate verbally in English. Persons receiving services include deaf and hard-of-hearing persons who communicate using signs and finger spelling, as well as lip reading, writing, gestures, pictures, and other methods. Persons not fluent in the English language who could benefit from having any part of the vocational rehabilitation process translated into their major language are included. The division shall purchase sign language interpreter services, including transliterating services, from appropriately licensed interpreters only.

Note taker services are services provided to make written notes and summaries of orally presented material. The notes may be made from a live presentation, such as a classroom lecture, or from materials that have been taped. These services are only purchased when the law states that the presenter or institution is not statutorily responsible.

56.23(3) No change.

ITEM 21. Amend rule **281—56.24(259)** as follows:

281—56.24(259) Facilities.

56.24(1) and 56.24(2) No change.

56.24(3) *Facilities providing ~~on-the-job~~ customized training.* Facilities selected as locations for employment training must have personnel qualified with respect to personality, knowledge and skills in the technique of instruction, have adequate equipment and instructional materials and be willing to make definite provisions for a plan of graduated progress in the job to be learned according to an efficiently organized and supervised instructional schedule.

56.24(4) *Facilities providing personal adjustment training.* In addition to other standards set for tutorial and ~~on-the-job~~ customized training, an important basis for selection of facilities for personal adjustment training is a sympathetic understanding of the personal adjustment needs of the individual and their importance to the client's total rehabilitation.

ITEM 22. Amend subrule **281—56.25(1)** by adopting new paragraph “e” as follows:

e. Documented evidence supports that the client is in the process of repaying a previously defaulted student loan.

ITEM 23. Amend rule **281—56.29(259)** as follows:

281—56.29(259) Review process. At the time of making application for rehabilitation services, and at other times throughout the rehabilitation process, all applicants and clients shall be informed of the right to appeal and the procedures by which to file an appeal. If an applicant or client is dissatisfied with any agency decision that directly affects the applicant or client, the applicant, client, or designated representative may appeal that decision or request mediation. The term “appellant” shall be used to indicate the applicant, client, or designated representative who initiates an appeal. The appellant initiates the appeal process either by filing the appropriate division appeal form, available from any counselor or supervisor of the division, or by calling a counselor or supervisor. If the appeal process is initiated by telephone, the counselor or supervisor who received the call must complete the appeal form to the best of that person's ability with information from the appellant. An appeal must be filed within 90 days of notification of the disputed decision. Once the appeal form has been filed with the division administrator, a hearing shall be held before an impartial hearing officer (IHO) within the next 60 days unless an extension of time is mutually agreed upon or one of the parties shows good cause for an extension. The appellant may request that the appeal go directly to impartial hearing, but the appellant shall be offered the opportunity for a supervisor review or mediation. The appellant may request assistance with an appeal or mediation from the Iowa client assistance program (ICAP).

ITEM 24. Amend subrule **56.35(7)** as follows:

56.35(7) Policy manuals. Manuals containing the policies and procedures for programs administered by the division are available in every office of the division. Subscriptions to all or some of the manuals are available at the cost of production and handling. Requests for

subscription information should be addressed to Vocational Rehabilitation Services Division, 510 E. 12th Street, Des Moines, Iowa 50319.